

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBIN GORDON,

Plaintiff,

v.

Civil Action 2:18-cv-939

Judge George C. Smith

Magistrate Judge Chelsey M. Vascura

**DOLLAR GENERAL CORPORATION,
et al.,**

Defendants.

REPORT AND RECOMMENDATION

Plaintiff commenced this action in the Court of Common Plea for Fairfield County, Ohio, on July 28, 2018, against Defendants, Dollar General Corporation, the Ohio Department of Job and Family Services, and John Does #1 and #2. On August 22, 2018, Defendant Dollar General Corporation removed the action to this Court. (ECF No. 1.) As of December 4, 2018, the two named defendants filed their answer, but Plaintiff had not moved to amend the Complaint to substitute in the real names for the John Doe defendants nor effected service upon the John Does as required by Federal Rule of Civil Procedure 4(m). Accordingly, on December 4, 2018, this Court issued an order directing Plaintiff to show why the Court should not dismiss the John Doe defendants and why the Court should allow an extension of time to effect service.

To date, Plaintiff has not responded to the Show Cause Order, sought leave to amend the Complaint, or effected service on the John Doe defendants. It is therefore **RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** against the John Doe defendants pursuant to Rule 4(m) for failure to timely effect service of process.

The undersigned further recognizes that Defendant Dollar General Corporation has notified the Court that it may seek leave to file a third-party complaint against the owner of the property, and the general contractor in charge of the construction of the premises, where Plaintiff alleges she was injured. (ECF No. 13.) The undersigned's recommendation to dismiss this action against the John Doe defendants will not affect Dollar General Corporation's ability to obtain leave to file its third-party complaint.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE